

Amdt. dated January 19, 2004
Reply to Office action of November 17, 2003

Serial No. 09/513,859
Docket No. SJO000031US1
Firm No. 0035.0001

REMARKS/ARGUMENTS

Claims 1, 3-17, 19-31, and 33-36 are pending in the application. Reconsideration is respectfully requested. Applicants submit that the pending claims 1, 3-17, 19-31, and 33-36 are patentable over the art of record and allowance is respectfully requested of claims 1, 3-17, 19-31, and 33-36.

In paragraph 6, the Office Action rejects claims 1, 3-17, 19-31, and 33-36 under 35 U.S.C. §103(a) as being unpatentable over Lavin et al. (U.S. Patent No. 5,772,585) in view of Brown (U.S. Patent No. 6,032,119). Applicants traverse these rejections for the following reasons.

Claim 1 describes generating an electronic patient data structure including patient biographical information and one of medical history information including medical event information, medication schedule information, and appointment schedule information. The patient data structure is electronically transmitted between a physician computer and a portable patient device, wherein the patient data structure is capable of being modified. In the display of the portable computing device, a main menu of selectable views are displayed, wherein the selectable views comprise a patient bio view, a medical history view, a patient medication schedule view, an appointment schedule view, and a log view, and wherein the appointment schedule view displayed in the display of the portable computing device differs from the appointment schedule view that is displayable on a display at the physician computer.

Applicants respectfully submit that neither the Lavin patent, nor the Brown patent, either alone or together teaches or suggests the subject matter of amended claim 1.

For example, the Lavin patent describes a main menu with an appointment button, a patient information button, a clinical button, a reports button, and a utilities button (Col. 5, lines 47-50; FIG. 2). The Lavin patent does not teach or suggest the claimed display of a main menu allowing selection of a patient bio view, a medical history view, a patient medication schedule view, an appointment schedule view, and a log view. For example, in the Lavin patent, to access

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history information, selection of a patient information button is selected (FIG. 2), and then a history tab is selected (FIG. 11). On the other hand, with the claimed invention, medical history is accessed directly by selecting the medical history view available from the main menu. Thus, the Lavin patent teaches away from the subject matter of claim 1. Also, the cited portion of the Lavin patent (at Col. 6, lines 8-67; Col. 7, lines 12-67 - Col. 8, line 67; Col. 14, lines 48-67 to Col. 15, line 46) describes an appointment screen in FIG. 4, a patient selection screen in FIG. 5, an appointment scheduling routine in FIG. 6, patient screens in FIGs. 7-9, screens for entering patient medical background information in FIGs. 10-11, a vital statistic entry screen in FIG. 12, and relationships among tables/screens in FIGs. 22, 23, and 24. Again, this description does not teach or suggest display of a main menu allowing selection of a patient bio view, a medical history view, a patient medication schedule view, an appointment schedule view, and a log view.

In the Brown patent, FIGs. 5A - 5G are schematic depictions of screen shots. (Col. 6, lines 19-21) The Brown patent describes that the display comprises several sections: a body image section, a log book section, a blood glucose center section, a feedback section, and a mail center section. (Col. 6, lines 46-51) In the Office Action, the Examiner submits that the Brown patent's description of the body image (FIG. 4-B), the blood glucose center (FIG. 4-C), logbook (FIG. 4-D), mail center (FIG. 4-E), Health Avatar (FIG. 5-A), and log book functions (FIG. 5-B) teaches the claimed invention. Applicants' traverse. For example, the claimed invention allows a user to access an appointment schedule view from the main menu. On the other hand, the Brown patent requires selection of a log book in order to be able to access the appointment schedule view. This teaches away from Applicants' claimed invention. Also, to obtain historical information on a body part, that body part is selected (FIG. 5F), and then a history button is selected (FIG. 5F). Again, this teaches away from displaying a medical history view in the main menu of selectable views. That is, with the claimed invention, medical history is accessed directly by selecting the medical history view available from the main menu. Thus, the Brown patent does not teach or suggest the claimed display of a main menu of selectable views, wherein the selectable views comprise a patient bio view, a medical history view, a patient medication

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schedule view, an appointment schedule view, and a log view. Instead, the Brown patent teaches away from the subject matter of claim 1.

Even if combined, the Lavin patent and the Brown patent do not teach or suggest the subject matter of claim 1. For example, the Lavin patent describes a main menu with an appointment button, a patient information button, a clinical button, a reports button, and a utilities button, while the Brown patent describes display of a body image section, a log book section, a blood glucose center section, a feedback section, and a mail center section. Even if combined, the result of combining the Lavin and Brown patents would be a main menu with an *appointment button, a patient information button, a clinical button, a reports button, a utilities button, a body image section, a log book section, a blood glucose center section, a feedback section, and a mail center section*. Applicants' claimed main menu allows selection of a patient bio view, a medical history view, a patient medication schedule view, an appointment schedule view, and a log view.

Independent claims 11, 17, 25, and 31 are not taught or suggested by the Lavin or Brown patents, either alone or in combination for at least the same reasons as were discussed with respect to claim 1.

Dependent claims 3, 6-7, 10, 12, 14, 19, 23-24, 26, 31, 33, and 36 incorporate the language of independent claims 1, 11, 17, 25, and 31, respectively, and add additional novel elements. Therefore, dependent claims , 6-7, 10, 12, 14, 19, 23-24, 26, 31, 33, and 36 are not taught or suggested by the Lavin or Brown patents, either alone or in combination for at least the same reasons as were discussed with respect to independent claim 1.

For example, claims 3, 19, and 33 describe indicating, with the portable patient device, that one scheduled patient medication shown in the patient medication schedule view was taken, wherein the medication schedule view provides a calendar display of a medication schedule derived from prescription subrecords in a patient record and storing the indication that the patient

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took the scheduled patient medication in the patient data structure in the portable computing device.

The Lavin patent at cited Col. 6, lines 58-67 describes a physician scheduling screen that allows a user to view and alter physician availability, at cited Col. 8, lines 39-67 describes entry of vital statistics on a vital statistics screen, and at cited Col. 12, lines 8-50 describes that a physician enters treatment plan data including medication regimens that the physician determines are appropriate. Although the Lavin patent describes medication regimens recommended by a physician, the Lavin patent does not describe storing an indication that the patient took the scheduled patient medication in the patient data structure in the portable computing device. Also, the Lavin patent, however, does not describe a medication schedule view that provides a calendar display of a medication schedule derived from prescription subrecords in a patient record. The Examiner indicates that Lavin discloses that a physician will often need to write out a prescription for a patient at the end of an examination and referring to FIG. 19, a prescription data entry screen 254 is shown. This enables a physician to prescribe a medication, selecting dosages and providing instructions. Again, this does not describe storing an indication that the patient took the scheduled patient medication in the patient data structure in the portable computing device.

Also, the Examiner indicates that the table relationships of the Lavin patent shown in FIGs. 22-24 of the drawings correspond to Applicants' claimed feature. Applicants traverse. First, the Lavin patent provides prescription information (FIG. 19), but does not teach or suggest the claimed calendar display of a medication schedule. Additionally, the table relationships in FIGs. 22-24 do not describe a medication schedule view that provides a calendar display of a medication schedule derived from prescription subrecords in a patient record. For example, the claimed invention describes deriving a medication schedule view from prescription subrecords in a patient record. FIG. 22 illustrates appointment tables/relationships, FIG. 23 illustrates patient information tables/relationships that do not include prescription subrecords, and FIG. 24 illustrates clinical tables/relationships where a patient information table 354 is related to a

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prescription table 356, but there is no indication that a medication schedule view is generated from the prescription table 356.

The Brown patent describes that the patient can access and modify records of medication. (Col. 6, lines 37-38) However, neither the Lavin patent nor the Brown patent describe that the medication schedule view provides a calendar display of a medication schedule derived from prescription subrecords in a patient record.

Claims 4, 20, and 34 describe setting an alarm to activate to provide an alert of one scheduled patient medication or appointment, wherein the alarm is set by a patient. The Examiner appears to indicate that the allergy alert screen is equivalent to setting an alarm to activate to provide an alert of a scheduled patient medication or appointment. Applicants traverse. The Lavin patent describes at Col. 14, lines 1-2 an allergy alert screen. An allergy alert screen that alerts the physician of potential or known allergies (Col. 13, lines 65-67- Col. 14, line 1) does not teach or suggest an alarm set by a patient to provide an alert for taking scheduled medication or for an appointment.

Claims 5, 13, 21, 27, and 35 describe log information that is read-only and once generated cannot be altered. On the other hand, the Lavin patent at Col. 10, lines 50-67 describes a physician recording progress notes. Since the physician is recording notes, it would be expected that the physician may modify the notes (e.g., to correct typos), which would teach away from log information that is read-only and once generated cannot be altered. Also the Brown patent describes a logbook that may be modified (Col. 6, lines 37-40).

Claims 6, 14, and 28 describe adding, with the physician computer, one of appointment and medication events to the patient data structure, wherein one appointment event indicates a scheduled medical related visit and one medication event indicates a drug prescription, wherein the drug prescription is digitally signed with a physician public key so that a pharmacist may

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authenticate an electronic prescription, and transmitting the modified patient data structure to the patient device. The Lavin patent describes a digitized physician signature to be entered through a computer pen or retrieved from a file (Col. 14, lines 18-21). Additionally, the Lavin patent describes that upon completion of a prescription, the physician has the option of printing out or faxing to the pharmacy the completed prescription (Col. 14, lines 21-24). Printing out or faxing the prescription teaches away from transmitting the modified patient data structure to the patient device. Also, printing or faxing the prescription would not allow a pharmacist to authenticate an electronic prescription. For example, the Specification at page 12, lines 17-20, describes that the claimed digital signature is defined as signing with a public key so that a pharmacist may authenticate an electronic prescription. Neither the Lavin nor the Brown patent describe such digital signing.

The Examiner indicates that the Brown patent may include a smart card that contains encrypted patient code, a prescribed treatment for the patient, and a URL address of the processing means and that the Brown patent at Col. 3, lines 60-67 to Col. 4, line 48 teaches Applicants' claimed feature. Applicants traverse. The smart card includes an encrypted patient code, a prescribed treatment for the patient and a URL address of the processing means. This does not teach or suggest that a prescription (which is not equivalent to a treatment plan) is digitally signed with a physician public key so that a pharmacist may authenticate an electronic prescription. In fact, there is no mention of signing with a physician public key. Moreover, the use of a smart card teaches away from the claimed digital signature that is defined in the Specification as signing with a public key so that a pharmacist may authenticate an electronic prescription. If a smart card were used, there would be no need for a physician to digitally sign the prescription with a public key. Therefore, the Brown patent teaches away from the claimed invention.

Claims 8, 15, 19, and 29 describe storing, with the physician computer, patient data structures for multiple patients; displaying, at the physician computer, an interactive schedule of

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patient appointments from the appointment schedule view maintained in the patient data structures, wherein appointment events are added to one patient data structure through the displayed interactive schedule of patient appointments, and wherein the displayed interactive schedule of patient appointments displays scheduled appointments for all patient records. The Lavin patent at cited Col. 6, lines 7-67 describes retrieving a patient's name, along with information associated with that patient; describes an appointment screen to view appointment slots by physician or location; a patient selection screen for access to that patient's information; and, a physician scheduling screen. That is, the Lavin patent provides access to a single patient's information at a time or to schedules of physicians. The Lavin patent does not provide an interactive schedule of patient appointments from the appointment schedule view maintained in the patient data structures, wherein appointment events are added to one patient data structure through the displayed interactive schedule of patient appointments, and wherein the displayed interactive schedule of patient appointments displays scheduled appointments for all patient records. Additionally, the Brown patent describes access to an individual's data via a Health Avatar (TM) (FIG. 5-A). Therefore, the combination of the Lavin and Brown patent teach access to a single patient's information and do not teach or suggest the subject matter of claims 8, 15, 19, and 29.

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Conclusion

For all the above reasons, Applicants submit that the pending claims 1, 3-17, 19-31, and 33-36 are patentable over the art of record. Applicants have not added any claims. Nonetheless, should any additional fees be required, please charge Deposit Account No. 09-0466.

The attorney of record invites the Examiner to contact her at (310) 553-7973 if the Examiner believes such contact would advance the prosecution of the case.

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